

Another prior section 783, Pub. L. 93-112, title IV, § 403, Sept. 26, 1973, 87 Stat. 387; Pub. L. 93-516, title I, § 108, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93-651, title I, § 108, Nov. 21, 1974, 89 Stat. 2-4; Pub. L. 94-230, §§ 8, 11(b)(11), Mar. 15, 1976, 90 Stat. 212, 213, authorized appropriations to conduct program and project evaluations, prior to repeal by Pub. L. 95-602, § 117.

#### **§ 784. Administrative powers of National Council**

##### **(a) Bylaws and rules**

The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this subchapter.

##### **(b) Hearings**

The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

##### **(c) Advisory committees**

The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

##### **(d) Use of mails**

The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

##### **(e) Use of services, personnel, information, and facilities**

The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in subchapter V of this chapter, such services, personnel, information, and facilities as may be needed to carry out its duties under this subchapter, with or without reimbursement to such agencies.

(Pub. L. 93-112, title IV, § 404, as added Pub. L. 105-220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1201.)

##### **PRIOR PROVISIONS**

A prior section 784, Pub. L. 93-112, title IV, § 404, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2979; amended Pub. L. 102-569, title IV, § 405, Oct. 29, 1992, 106 Stat. 4423, related to administrative powers of National Council, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 784, Pub. L. 93-112, title IV, § 404, Sept. 26, 1973, 87 Stat. 387, directed Secretary to submit annual reports to the President and to Congress on activities carried out under this chapter, prior to repeal by Pub. L. 95-602, § 117.

##### **TERMINATION OF ADVISORY COMMITTEES**

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### **§ 785. Authorization of appropriations**

There are authorized to be appropriated to carry out this subchapter such sums as may be

necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93-112, title IV, § 405, as added Pub. L. 105-220, title IV, § 407, Aug. 7, 1998, 112 Stat. 1202.)

##### **PRIOR PROVISIONS**

A prior section 785, Pub. L. 93-112, title IV, § 405, as added Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2979; amended Pub. L. 99-506, title V, § 504, Oct. 21, 1986, 100 Stat. 1829; Pub. L. 102-52, § 5, June 6, 1991, 105 Stat. 262; Pub. L. 102-569, title IV, § 406, Oct. 29, 1992, 106 Stat. 4423, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105-220.

Another prior section 785, Pub. L. 93-112, title IV, § 405, Sept. 26, 1973, 87 Stat. 388; Pub. L. 93-516, title I, §§ 109, 111(m), Dec. 7, 1974, 88 Stat. 1619, 1621; Pub. L. 93-651, title I, §§ 109, 111(m), Nov. 21, 1974, 89 Stat. 2-4, 2-6; Pub. L. 94-230, §§ 9, 11(b)(12), Mar. 15, 1976, 90 Stat. 212, 213, specified certain responsibilities of the Secretary, prior to repeal by Pub. L. 95-602, § 117.

Prior sections 786 and 787 were repealed by Pub. L. 95-602, title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

Section 786, Pub. L. 93-112, title IV, § 406, Sept. 26, 1973, 87 Stat. 389; S. Res. 4, Feb. 4, 1977, provided that the Secretary conduct a study on the role of sheltered workshops in the rehabilitation and employment of handicapped individuals and report the results of this study to Congress within twenty-four months after Sept. 26, 1973.

Section 787, Pub. L. 93-112, title IV, § 407, Sept. 26, 1973, 87 Stat. 389, provided that the Secretary conduct a study on allotment of funds among the States for grants for basic vocational rehabilitation and report the results of this study to Congress not later than June 30, 1974.

#### **SUBCHAPTER V—RIGHTS AND ADVOCACY**

#### **§ 790. Repealed. Pub. L. 102-569, title V, § 502(a), Oct. 29, 1992, 106 Stat. 4424**

Section, Pub. L. 93-112, title V, § 500, Sept. 26, 1973, 87 Stat. 390, related to effects on existing law, references in other provisions, availability of unexpended appropriations, savings provision, and extension of appropriations.

#### **§ 791. Employment of individuals with disabilities**

##### **(a) Interagency Committee on Employees who are Individuals with Disabilities; establishment; membership; co-chairmen; availability of other Committee resources; purpose and functions**

There is established within the Federal Government an Interagency Committee on Employees who are Individuals with Disabilities (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Equal Employment Opportunity Commission (hereafter in this section referred to as the "Commission"), the Director of the Office of Personnel Management, the Secretary of Veterans Affairs, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services. Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman

jointly determine, from time to time, to be appropriate. The resources of the President's Disability Employment Partnership Board and the President's Committee for People with Intellectual Disabilities shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of individuals with disabilities, and to review, on a periodic basis, in cooperation with the Commission, the adequacy of hiring, placement, and advancement practices with respect to individuals with disabilities, by each department, agency, and instrumentality in the executive branch of Government and the Smithsonian Institution, and to insure that the special needs of such individuals are being met; and (2) to consult with the Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

**(b) Federal agencies; affirmative action program plans**

Each department, agency, and instrumentality (including the United States Postal Service and the Postal Regulatory Commission) in the executive branch and the Smithsonian Institution shall, within one hundred and eighty days after September 26, 1973, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

**(c) State agencies; rehabilitated individuals, employment**

The Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for individuals with disabilities, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

**(d) Report to Congressional committees**

The Commission, after consultation with the Committee, shall, on June 30, 1974, and at the

end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of individuals with disabilities by each department, agency, and instrumentality and the Smithsonian Institution and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the activities of the Commission under subsections (b) and (c) of this section.

**(e) Federal work experience without pay; non-Federal status**

An individual who, as a part of an individualized plan for employment under a State plan approved under this chapter, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

**(f) Federal agency cooperation; special consideration for positions on President's Committee on Employment of People With Disabilities**

(1) The Secretary of Labor and the Secretary of Education are authorized and directed to cooperate with the President's Committee on Employment of People With Disabilities in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of People With Disabilities, special consideration shall be given to qualified individuals with disabilities.

**(g) Standards used in determining violation of section**

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,<sup>1</sup> of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(Pub. L. 93–112, title V, § 501, Sept. 26, 1973, 87 Stat. 390; Pub. L. 98–221, title I, § 104(b)(3), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99–506, title I, § 103(d)(2)(C), title X, §§ 1001(f)(1), 1002(e)(1), (2)(A), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(a), Nov. 7, 1988, 102 Stat. 3310; Pub. L. 102–54, § 13(k)(1)(B), June 13, 1991, 105 Stat. 276; Pub. L. 102–569, title I, § 102(p)(29), title V, § 503, Oct. 29, 1992, 106 Stat. 4360, 4424; Pub. L. 103–73, title I, § 112(a), Aug. 11, 1993, 107 Stat. 727; Pub. L. 105–220, title III, § 341(c), title IV,

<sup>1</sup> See References in Text note below.

§ 408(a)(1), Aug. 7, 1998, 112 Stat. 1092, 1202; Pub. L. 109-435, title VI, § 604(d), Dec. 20, 2006, 120 Stat. 3242; Pub. L. 111-256, § 2(d)(3), Oct. 5, 2010, 124 Stat. 2643.)

#### REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a), is set out in section 5315 of Title 5, Government Organization and Employees.

The Americans with Disabilities Act of 1990, referred to in subsec. (g), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. Section 510 of the Act was renumbered section 511 by Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### PRIOR PROVISIONS

Prior similar provisions were set out in section 38 of this title.

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111-256 substituted “President’s Disability Employment Partnership Board and the President’s Committee for People with Intellectual Disabilities” for “President’s Committees on Employment of People With Disabilities and on Mental Retardation”.

2006—Subsec. (b). Pub. L. 109-435, § 604(d), substituted “Postal Regulatory Commission” for “Postal Rate Office”.

1998—Subsec. (a). Pub. L. 105-220, § 408(a)(1)(A), substituted “President’s Committees on Employment of People With Disabilities” for “President’s Committees on Employment of the Handicapped” in third sentence.

Pub. L. 105-220, § 341(c)(1), inserted “and the Smithsonian Institution” after “Government” in fourth sentence.

Subsec. (b). Pub. L. 105-220, § 341(c)(2), in first sentence, inserted “and the Smithsonian Institution” after “in the executive branch” and substituted “such department, agency, instrumentality, or Institution” for “such department, agency, or instrumentality”.

Subsec. (d). Pub. L. 105-220, § 341(c)(3), inserted “and the Smithsonian Institution” after “instrumentality”.

Subsec. (e). Pub. L. 105-220, § 408(a)(1)(B), substituted “individualized plan for employment” for “individualized written rehabilitation program”.

1993—Subsec. (a). Pub. L. 103-73 in first sentence inserted comma after “Veterans Affairs”.

1992—Pub. L. 102-569, § 102(p)(29)(A), substituted “disabilities” for “handicaps” in section catchline.

Subsec. (a). Pub. L. 102-569, § 503(a), substituted “the Director of the Office of Personnel Management, the Secretary of Veterans Affairs” for “the Secretary of Veterans Affairs, and”, and amended second sentence generally. Prior to amendment, second sentence read as follows: “The Secretary of Education and the Chairman of the Commission shall serve as co-chairpersons of the Committee.”

Pub. L. 102-569, § 102(p)(29)(B), (C), substituted “Interagency Committee on Employees who are Individuals with Disabilities” for “Interagency Committee on Handicapped Employees” and “individuals with disabilities” for “individuals with handicaps” in two places.

Subsec. (b). Pub. L. 102-569, § 102(p)(29)(C), (D), substituted “individuals with disabilities” for “individuals with handicaps” after “advancement of” and after “opportunities for” and “employees who are individuals with disabilities” for “employees with handicaps”.

Subsecs. (c), (d), (f)(2). Pub. L. 102-569, § 102(p)(29)(C), substituted “individuals with disabilities” for “individuals with handicaps”.

Subsec. (g). Pub. L. 102-569, § 503(b), added subsec. (g).  
1991—Subsec. (a). Pub. L. 102-54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.

1988—Subsec. (a). Pub. L. 100-630, § 206(a)(3)(C), which directed substitution of “Employment of People With Disabilities” for “Employment of the Handicapped” in second sentence, could not be executed because the words did not appear in second sentence.

Pub. L. 100-630, § 206(a)(1)-(3)(B), (4), inserted “(hereafter in this section referred to as the ‘Commission’)” after first reference to “Equal Employment Opportunity Commission” and substituted “Commission” for “Equal Opportunity Employment Commission” wherever appearing, “Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services” for “Secretaries of Labor and Education and Health and Human Services” in first sentence, “co-chairpersons” for “co-chairmen” in second sentence, and “Commission” for “Office” in cl. (2).

Subsec. (b). Pub. L. 100-630, § 206(a)(2), (5), substituted “submit to the Commission” for “submit to the Equal Employment Opportunity Commission”, “employees with handicaps” for “handicapped employees”, and “Commission, if the Commission determines” for “Office, if the Office determines”.

Subsecs. (c), (d). Pub. L. 100-630, § 206(a)(2), substituted “Commission” for “Equal Opportunity Employment Commission” wherever appearing.

Subsec. (e). Pub. L. 100-630, § 206(a)(6), substituted “an individualized” for “a individualized”.

Subsec. (f)(1), (2). Pub. L. 100-630, § 206(a)(7), substituted “Employment of People With Disabilities” for “Employment of the Handicapped”.

1986—Pub. L. 99-506, § 103(d)(2)(C), substituted “individuals with handicaps” for “handicapped individuals” in section catchline.

Subsecs. (a) to (c). Pub. L. 99-506, §§ 103(d)(2)(C), 1002(e)(1), substituted “Equal Employment Opportunity Commission” for “Office of Personnel Management” and “individuals with handicaps” for “handicapped individuals” wherever appearing.

Subsec. (d). Pub. L. 99-506, §§ 103(d)(2)(C), 1002(e)(1), (2)(A), substituted “Equal Employment Opportunity Commission” for “Office of Personnel Management” wherever appearing, “individuals with handicaps” for “handicapped individuals”, and “of the activities” for “of the the activities”.

Subsec. (e). Pub. L. 99-506, § 1001(f)(1), substituted “a individualized” for “his individualized”.

Subsec. (f)(2). Pub. L. 99-506, § 103(d)(2)(C), substituted “individuals with handicaps” for “handicapped individuals”.

1984—Subsec. (a). Pub. L. 98-221, § 104(b)(3)(A)-(D), substituted “the Chairman of the Office of Personnel Management” and “Education and Health and Human Services” for “the Chairman of the Civil Service Commission” and “Health, Education, and Welfare”, respectively, in first sentence, “Secretary of Education and the Chairman of the Office of Personnel Management” for “Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission” in second sentence, “Office of Personnel Management” for “Civil Service Commission” in four places, and “Office” for “Commission”.

Subsec. (b). Pub. L. 98-221, § 104(b)(3)(C), (D), substituted “Office of Personnel Management” for “Civil Service Commission” and substituted “Office” for “Commission” in three places.

Subsec. (c). Pub. L. 98-221, § 104(b)(3)(C), substituted “Office of Personnel Management” for “Civil Service Commission”.

Subsec. (d). Pub. L. 98-221, § 104(b)(3)(C), (E), substituted “Office of Personnel Management” for “Civil Service Commission” in two places and “the activities of the Office of Personnel Management” for “Civil Service Commission’s activities”.

Subsec. (f)(1). Pub. L. 98-221, § 104(b)(3)(F), substituted “Secretary of Education” for “Secretary of Health, Education, and Welfare”.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 341(c) of Pub. L. 105-220 effective Aug. 7, 1998, and applicable to and may be raised

in any administrative or judicial claim or action brought before Aug. 7, 1998, but pending on such date, and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action was brought within the applicable statute of limitations, see section 341(d) of Pub. L. 105-220, set out as a note under section 633a of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-569, title I, §138, Oct. 29, 1992, 106 Stat. 4397, as amended by Pub. L. 103-73, title I, §102(3), Aug. 11, 1993, 107 Stat. 718, provided that:

“(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this title [enacting sections 718 to 718b, 725 to 728a, and 740 to 744 of this title, amending this section and sections 701, 705 to 707, 709, 711 to 715, 717, 720 to 724, 730 to 732, 740, 741, 750, 761a to 762, 770, 772 to 776, 777a, 777b, 777d to 777f, 780, 781, 783, 792 to 794, 795, 795d, 795e, and 795h of this title, repealing section 752 of this title, enacting provisions set out as notes under section 712 of this title, and amending provisions set out as a note under section 701 of this title] and the amendments made by this title shall take effect on the date of enactment of this Act [Oct. 29, 1992].

“(b) **COMPLIANCE.**—Each State agency subject to the provisions of title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] shall comply with the amendments made by this subtitle [subtitle B (§§121-138) of title I of Pub. L. 102-569, enacting sections 725 to 728a and 740 to 744 of this title, amending sections 705, 720 to 724, and 730 to 732 of this title, and repealing section 752 of this title], as soon as is practicable after the date of enactment of this Act [Oct. 29, 1992], consistent with the effective and efficient administration of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], but not later than October 1, 1993.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-506, title X, §1006, Oct. 21, 1986, 100 Stat. 1846, provided that: “Except as otherwise provided in this Act [see Short Title of 1986 Amendment note set out under section 701 of this title], this Act shall take effect on the date of its enactment [Oct. 21, 1986].”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which reports required under subsecs. (a) and (d) of this section are listed on page 188), see section 3003 of Pub. L. 104-66, set out as a note under section 1113 of Title 31, Money and Finance.

#### EXECUTIVE ORDER No. 10640

Ex. Ord. No. 10640, Oct. 10, 1955, 20 F.R. 7717, formerly set out as a note under section 39 of this title, which related to President's Committee on Employment of the Physically Handicapped, was superseded by section 6(a) of Ex. Ord. No. 10994, Feb. 14, 1962, 27 F.R. 1447, which established President's Committee on Employment of the Handicapped.

#### EXECUTIVE ORDER No. 10994

Ex. Ord. No. 10994, Feb. 14, 1962, 27 F.R. 1447, as amended by Ex. Ord. No. 11018, Apr. 27, 1962, 27 F.R. 4143, which established the President's Committee on Employment of the Handicapped, was superseded by Ex. Ord. No. 11480, Sept. 9, 1969, 34 F.R. 14273, formerly set out below.

#### EXECUTIVE ORDER No. 11480

Ex. Ord. No. 11480, Sept. 9, 1969, 34 F.R. 14273, as amended by Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which established and provided for the functions of the President's Committee on Employment of the Handi-

capped, was superseded by Ex. Ord. No. 12640, May 10, 1988, 53 F.R. 16996, formerly set out below.

#### EX. ORD. NO. 11830. ENLARGING MEMBERSHIP OF INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

Ex. Ord. No. 11830, Jan. 9, 1975, 40 F.R. 2411, as amended by Ex. Ord. No. 12106, Dec. 26, 1978, 44 F.R. 1053; Ex. Ord. No. 12450, Dec. 9, 1983, 48 F.R. 55409; Ex. Ord. No. 12672, Mar. 21, 1989, 54 F.R. 12167; Ex. Ord. No. 12704, §1, Feb. 26, 1990, 55 F.R. 6969, provided:

By virtue of the authority vested in me by section 501(a) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 390) [subsec. (a) of this section], it is hereby ordered as follows:

**SECTION 1.** In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 19808) [set out in the Appendix to Title 5, Government Organization and Employees], the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

- (1) Secretary of Defense.
- (2) Secretary of Labor.
- (3) Secretary of Education, Co-Chairman.
- (4) Director of the Office of Personnel Management.
- (5) Administrator of Veterans Affairs.
- (6) Administrator of General Services.
- (7) Chairman of the Federal Communications Commission.
- (8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
- (9) Secretary of Health and Human Services.
- (10) Postmaster General of the United States Postal Service.
- (11) Chairman of the President's Committee on Employment of People with Disabilities (Ex Officio).
- (12) Such other members as the President may designate.

**SEC. 2.** The Interagency Committee on Handicapped Employees shall also be referred to as the Interagency Committee on Employment of People with Disabilities.

#### EXECUTIVE ORDER No. 12640

Ex. Ord. No. 12640, May 10, 1988, 53 F.R. 16996, as amended by Ex. Ord. No. 12945, Jan. 20, 1995, 60 F.R. 4527, which established the President's Committee on Employment of People with Disabilities, the Executive Committee of the President's Committee on Employment of People with Disabilities, and the Advisory Council on Employment of People with Disabilities, and provided for the membership, functions, and administration of those bodies, and superseded Ex. Ord. No. 11480, was revoked by Ex. Ord. No. 13187, §4(a), Jan. 10, 2001, 66 F.R. 3858, set out as a note under section 701 of this title.

#### EX. ORD. NO. 13163. INCREASING THE OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES TO BE EMPLOYED IN THE FEDERAL GOVERNMENT

Ex. Ord. No. 13163, July 26, 2000, 65 F.R. 46563, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote an increase in the opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and to support the goals articulated in section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), it is hereby ordered as follows:

**SECTION 1. Increasing the Federal Employment Opportunities for Individuals with Disabilities.** (a) Recent evidence demonstrates that, throughout the United States, qualified persons with disabilities have been refused employment despite their availability and qualifications, and many qualified persons with disabilities are never made aware of available employment opportunities. Evidence also suggests that increased efforts at outreach, and increased understanding of the reason-

able accommodations available for persons with disabilities, will permit persons with disabilities to compete for employment on a more level playing field.

(b) Based on current hiring patterns and anticipated increases from expanded outreach efforts and appropriate accommodations, the Federal Government, over the next 5 years, will be able to hire 100,000 qualified individuals with disabilities. In furtherance of such efforts, Federal agencies shall:

(1) Use available hiring authorities, consistent with statutes, regulations, and prior Executive orders and Presidential Memoranda;

(2) Expand their outreach efforts, using both traditional and nontraditional methods; and

(3) Increase their efforts to accommodate individuals with disabilities.

(c) As a model employer, the Federal Government will take the lead in educating the public about employment opportunities available for individuals with disabilities.

(d) This order does not require agencies to create new positions or to change existing qualification standards for any position.

SEC. 2. *Implementation.* Each Federal agency shall prepare a plan to increase the opportunities for individuals with disabilities to be employed in the agency. Each agency shall submit that plan to the Office of Personnel Management within 60 days from the date of this order.

SEC. 3. *Authority to Develop Guidance.* The Office of Personnel Management shall develop guidance on the provisions of this order to increase the opportunities for individuals with disabilities employed in the Federal Government.

SEC. 4. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13164. REQUIRING FEDERAL AGENCIES TO ESTABLISH PROCEDURES TO FACILITATE THE PROVISION OF REASONABLE ACCOMMODATION

Ex. Ord. No. 13164, July 26, 2000, 65 F.R. 46565, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended, and in order to promote a model Federal workplace that provides reasonable accommodation for (1) individuals with disabilities in the application process for Federal employment; (2) Federal employees with disabilities to perform the essential functions of a position; and (3) Federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, it is hereby ordered as follows:

SECTION 1. *Establishment of Effective Written Procedures to Facilitate the Provision of Reasonable Accommodation.*

(a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities. The written procedures may allow different components of an agency to tailor their procedures as necessary to ensure the expeditious processing of requests.

(b) As set forth in *Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities* (1998), effective written procedures for processing requests for reasonable accommodation should include the following:

(1) Explain that an employee or job applicant may initiate a request for reasonable accommodation orally or in writing. If the agency requires an applicant or employee to complete a reasonable accommodation request form for recordkeeping purposes, the form must be provided as an attachment to the agency's written procedures;

(2) Explain how the agency will process a request for reasonable accommodation, and from whom the individual will receive a final decision;

(3) Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. Time limits for decision making should be as short as reasonably possible;

(4) Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation where the disability and/or need for accommodation is not obvious;

(5) Explain the agency's right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace;

(6) Explain the agency's right to have medical information reviewed by a medical expert of the agency's choosing at the agency's expense;

(7) Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position;

(8) Provide that reasonable accommodation denials be in writing and specify the reasons for denial;

(9) Ensure that agencies' systems of recordkeeping track the processing of requests for reasonable accommodation and maintain the confidentiality of medical information received in accordance with applicable law and regulations; and

(10) Encourage the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Agencies must also inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity process and other statutory processes, as appropriate, if their requests for reasonable accommodation are denied.

SEC. 2. *Submission of Agency Reasonable Accommodation Procedures to the Equal Employment Opportunity Commission (EEOC).* Within 1 year from the date of this order, each agency shall submit its procedures to the EEOC. Each agency shall also submit to the EEOC any modifications to its reasonable accommodation procedures at the time that those modifications are adopted.

SEC. 3. *Collective Bargaining Obligations.* In adopting their reasonable accommodation procedures, agencies must honor their obligations to notify their collective bargaining representatives and bargain over such procedures to the extent required by law.

SEC. 4. *Implementation.* The EEOC shall issue guidance for the implementation of this order within 90 days from the date of this order.

SEC. 5. *Construction and Judicial Review.* (a) Nothing in this order limits the rights that individuals with disabilities may have under the Rehabilitation Act of 1973, as amended.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, its employees, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13548. INCREASING FEDERAL EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

Ex. Ord. No. 13548, July 26, 2010, 75 F.R. 45039, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish the Federal Govern-

ment as a model employer of individuals with disabilities, it is hereby ordered as follows:

SECTION 1. *Policy.* Approximately 54 million Americans are living with a disability. The Federal Government has an important interest in reducing discrimination against Americans living with a disability, in eliminating the stigma associated with disability, and in encouraging Americans with disabilities to seek employment in the Federal workforce. Yet Americans with disabilities have an employment rate far lower than that of Americans without disabilities, and they are underrepresented in the Federal workforce. Individuals with disabilities currently represent just over 5 percent of the nearly 2.5 million people in the Federal workforce, and individuals with targeted disabilities (as defined below) currently represent less than 1 percent of that workforce.

On July 26, 2000, in the final year of his administration, President Clinton signed Executive Order 13163, calling for an additional 100,000 individuals with disabilities to be employed by the Federal Government over 5 years. Yet few steps were taken to implement that Executive Order in subsequent years.

As the Nation's largest employer, the Federal Government must become a model for the employment of individuals with disabilities. Executive departments and agencies (agencies) must improve their efforts to employ workers with disabilities through increased recruitment, hiring, and retention of these individuals. My Administration is committed to increasing the number of individuals with disabilities in the Federal workforce through compliance with Executive Order 13163 and achievement of the goals set forth therein over 5 years, including specific goals for hiring individuals with targeted disabilities.

SEC. 2. *Recruitment and Hiring of Individuals with Disabilities.* (a) Within 60 days of the date of this order, the Director of the Office of Personnel Management, in consultation with the Secretary of Labor, the Chair of the Equal Employment Opportunity Commission, and the Director of the Office of Management and Budget, shall design model recruitment and hiring strategies for agencies seeking to increase their employment of people with disabilities and develop mandatory training programs for both human resources personnel and hiring managers on the employment of individuals with disabilities.

(b) Within 120 days of the date the Office of Personnel Management sets forth strategies and programs required under subsection (a), each agency shall develop an agency-specific plan for promoting employment opportunities for individuals with disabilities. The plan shall be developed in consultation with and, as appropriate, subject to approval by the Director of the Office of Personnel Management and the Director of the Office of Management and Budget, and shall, consistent with law, include performance targets and numerical goals for employment of individuals with disabilities and sub-goals for employment of individuals with targeted disabilities.

(c) Each agency shall designate a senior-level agency official to be accountable for enhancing employment opportunities for individuals with disabilities and individuals with targeted disabilities within the agency, consistent with law, and for meeting the goals of this order. This official, among other things, shall be accountable for developing and implementing the agency's plan under subsection (b), creating recruitment and training programs for employment of individuals with disabilities and targeted disabilities, and coordinating employment counseling to help match the career aspirations of individuals with disabilities to the needs of the agency.

(d) In implementing their plans, agencies, to the extent permitted by law, shall increase utilization of the Federal Government's Schedule A excepted service hiring authority for persons with disabilities and increase participation of individuals with disabilities in internships, fellowships, and training and mentoring programs.

(e) The Office of Personnel Management shall assist agencies with the implementation of their plans. The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, shall implement a system for reporting regularly to the President, the heads of agencies, and the public on agencies' progress in implementing their plans and the objectives of this order. The Office of Personnel Management, to the extent permitted by law, shall compile and post on its website Government-wide statistics on the hiring of individuals with disabilities.

SEC. 3. *Increasing Agencies' Retention and Return to Work of Individuals with Disabilities.* (a) The Director of the Office of Personnel Management, in consultation with the Secretary of Labor and the Chair of the Equal Employment Opportunity Commission, shall identify and assist agencies in implementing strategies for retaining Federal workers with disabilities in Federal employment including, but not limited to, training, the use of centralized funds to provide reasonable accommodations, increasing access to appropriate accessible technologies, and ensuring the accessibility of physical and virtual workspaces.

(b) Agencies shall make special efforts, to the extent permitted by law, to ensure the retention of those who are injured on the job. Agencies shall work to improve, expand, and increase successful return-to-work outcomes for those of their employees who sustain work-related injuries and illnesses, as defined under the Federal Employees' Compensation Act (FECA), by increasing the availability of job accommodations and light or limited duty jobs, removing disincentives for FECA claimants to return to work, and taking other appropriate measures. The Secretary of Labor, in consultation with the Director of the Office of Personnel Management, shall pursue innovative re-employment strategies and develop policies, procedures, and structures that foster improved return-to-work outcomes, including by pursuing overall reform of the FECA system. The Secretary of Labor shall also propose specific outcome measures and targets by which each agency's progress in carrying out return-to-work and FECA claims processing efforts can be assessed.

SEC. 4. *Definitions.* (a) "Disability" shall be defined as set forth in the ADA Amendments Act of 2008.

(b) "Targeted disability" shall be defined as set forth on the form for self-identification of disability, Standard Form 256 (SF 256), issued by the Office of Personnel Management, or any replacements, updates, or revisions thereto.

(c) Not less than 1 year after the date of this order and in consultation with the Equal Employment Opportunity Commission, the Department of Labor, and the Office of Management and Budget, the Office of Personnel Management shall review the effectiveness of the definition of targeted disability set forth in SF 256 and replace, update, or revise it as appropriate.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations, and shall not be construed to require any Federal employee to disclose disability status involuntarily.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

**§ 792. Architectural and Transportation Barriers Compliance Board**

**(a) Establishment; membership; chairperson; vice-chairperson; term of office; termination of membership; reappointment; compensation and travel expenses; bylaws; quorum requirements**

(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Access Board") which shall be composed as follows:

(A) Thirteen members shall be appointed by the President from among members of the general public of whom at least a majority shall be individuals with disabilities.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

- (i) Department of Health and Human Services.
- (ii) Department of Transportation.
- (iii) Department of Housing and Urban Development.
- (iv) Department of Labor.
- (v) Department of the Interior.
- (vi) Department of Defense.
- (vii) Department of Justice.
- (viii) General Services Administration.
- (ix) Department of Veterans Affairs.
- (x) United States Postal Service.
- (xi) Department of Education.
- (xii) Department of Commerce.

The chairperson and vice-chairperson of the Access Board shall be elected by majority vote of the members of the Access Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal official, the subsequent chairperson shall be a member of the general public; and vice versa.

(2)(A)(i) The term of office of each appointed member of the Access Board shall be 4 years, except as provided in clause (ii). Each year, the terms of office of at least three appointed members of the board<sup>1</sup> shall expire.

(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.

(B) A member whose term has expired may continue to serve until a successor has been appointed.

(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

(3) If any appointed member of the Access Board becomes a Federal employee, such member may continue as a member of the Access Board for not longer than the sixty-day period beginning on the date the member becomes a Federal employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Access Board may be reappointed to the Access Board more than once unless such individual has not served on the Access Board for a period of two years prior to the effective date of such individual's appointment.

(5)(A) Members of the Access Board who are not regular full-time employees of the United States shall, while serving on the business of the Access Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315 of title 5, including travel time, for each day they are engaged in the performance of their duties as members of the Access Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(B) Members of the Access Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(6)(A) The Access Board shall establish such bylaws and other rules as may be appropriate to enable the Access Board to carry out its functions under this chapter.

(B) The bylaws shall include quorum requirements. The quorum requirements shall provide that (i) a proxy may not be counted for purposes of establishing a quorum, and (ii) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).

**(b) Functions**

It shall be the function of the Access Board to—

(1) ensure compliance with the standards prescribed pursuant to the Act entitled "An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

(2) develop advisory information for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this subchapter or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

<sup>1</sup> So in original. Probably should be "Access Board".

(3) establish and maintain—

(A) minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

(B) minimum guidelines and requirements for the standards issued pursuant to titles II and III of the Americans with Disabilities Act of 1990;

(C) guidelines for accessibility of telecommunications equipment and customer premises equipment under section 255 of title 47; and

(D) standards for accessible electronic and information technology under section 794d of this title;

(4) promote accessibility throughout all segments of society;

(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5);

(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities; and

(11) carry out the responsibilities specified for the Access Board in section 794d of this title.

**(c) Additional functions; transportation barriers and housing needs; transportation and housing plans and proposals**

The Access Board shall also (1)(A) determine how and to what extent transportation barriers impede the mobility of individuals with disabilities and aged individuals with disabilities and consider ways in which travel expenses in connection with transportation to and from work for individuals with disabilities can be met or subsidized when such individuals are unable to use mass transit systems or need special equip-

ment in private transportation, and (B) consider the housing needs of individuals with disabilities; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems, and (B) to make housing available and accessible to individuals with disabilities or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for individuals with disabilities, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

**(d) Electronic and information technology accessibility training**

Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals and entities (as defined in section 3002 of this title), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 794d of this title.

**(e) Investigations; hearings; orders; administrative procedure applicable; final orders; judicial review; civil action; intervention**

(1) The Access Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to ensure compliance with the provisions of the Acts cited in subsection (b) of this section. Except as provided in paragraph (3) of subsection (f) of this section, the provisions of subchapter II of chapter 5, and chapter 7 of title 5 shall apply to procedures under this subsection, and an order of compliance issued by the Access Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(2) The executive director is authorized, at the direction of the Access Board—

(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Access Board under this subsection; and

(B) to intervene, appear, and participate, or to appear as *amicus curiae*, in any court of the United States or in any court of a State in civil actions that relate to this section or to



the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.].

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the executive director may appear for and represent the Access Board in any civil litigation brought under this section.

**(f) Appointment of executive director, administrative law judges, and other personnel; provisions applicable to administrative law judges; authority and duties of executive director; finality of orders of compliance**

(1) There shall be appointed by the Access Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this chapter. The Access Board is authorized to appoint as many administrative law judges as are necessary for proceedings required to be conducted under this section. The provisions applicable to administrative law judges appointed under section 3105 of title 5 shall apply to administrative law judges appointed under this subsection.

(2) The Executive Director shall exercise general supervision over all personnel employed by the Access Board (other than administrative law judges and their assistants). The Executive Director shall have final authority on behalf of the Access Board, with respect to the investigation of alleged noncompliance and in the issuance of formal complaints before the Access Board, and shall have such other duties as the Access Board may prescribe.

(3) For the purpose of this section, an order of compliance issued by an administrative law judge shall be deemed to be an order of the Access Board and shall be the final order for the purpose of judicial review.

**(g) Technical, administrative, or other assistance; appointment, compensation, and travel expenses of advisory and technical experts and consultants**

(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

(2) The departments or agencies specified in subsection (a) of this section shall make available to the Access Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Access Board may appoint such other advisers,

technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this paragraph shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Chairperson,<sup>2</sup> but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, including travel time, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

**(h) Omitted**

**(i) Grants and contracts to aid Access Board in carrying out its functions; acceptance of gifts, devises, and bequests of property**

(1) The Access Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c) of this section.

(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b) of this section. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson.<sup>2</sup> Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(3) Omitted.

**(j) Authorization of appropriations**

There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Access Board under this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 93-112, title V, §502, Sept. 26, 1973, 87 Stat. 391; Pub. L. 93-516, title I, §§110, 111(n)-(q), Dec. 7, 1974, 88 Stat. 1619, 1621, 1622; Pub. L. 93-651, title I, §§110, 111(n)-(q), Nov. 21, 1974, 89 Stat. 2-4, 2-6, 2-7; Pub. L. 94-230, §§10, 11(b)(13), Mar. 15, 1976, 90 Stat. 212, 214; Pub. L. 95-251,

<sup>2</sup> So in original. Probably should not be capitalized.

§2(a)(8), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-602, title I, §118, Nov. 6, 1978, 92 Stat. 2979; Pub. L. 96-374, title XIII, §1321, Oct. 3, 1980, 94 Stat. 1499; Pub. L. 98-221, title I, §151, Feb. 22, 1984, 98 Stat. 28; Pub. L. 99-506, title I, §103(d)(2)(C), title VI, §601, title X, §1002(e)(2)(B)-(D), Oct. 21, 1986, 100 Stat. 1810, 1829, 1844; Pub. L. 100-630, title II, §206(b), Nov. 7, 1988, 102 Stat. 3311; Pub. L. 102-52, §6, June 6, 1991, 105 Stat. 262; Pub. L. 102-54, §13(k)(1)(A), June 13, 1991, 105 Stat. 276; Pub. L. 102-569, title I, §102(p)(30), title V, §504, Oct. 29, 1992, 106 Stat. 4360, 4424; Pub. L. 103-73, title I, §112(b), Aug. 11, 1993, 107 Stat. 727; Pub. L. 105-220, title IV, §408(a)(2), Aug. 7, 1998, 112 Stat. 1202; Pub. L. 105-394, title II, §203(a), Nov. 13, 1998, 112 Stat. 3653; Pub. L. 108-364, §3(b)(3), Oct. 25, 2004, 118 Stat. 1737.)

#### REFERENCES IN TEXT

Executive level IV, referred to in subsec. (a)(1)(B), is set out in section 5315 of Title 5, Government Organization and Employees.

The Act commonly known as the Architectural Barriers Act of 1968, referred to in subsecs. (b)(1), (3)(A), (7) and (e)(2)(B), is Pub. L. 90-480, Aug. 12, 1968, 82 Stat. 718, as amended, which is classified generally to chapter 51 (§4151 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4151 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2), (3)(B), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended. Titles II and III of the Act are classified generally to subchapters II (§12131 et seq.) and III (§12181 et seq.), respectively, of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### CODIFICATION

Subsecs. (h) and (i)(3) of this section, which required the Board to submit an annual report on its activities to Congress and, at the same time the Board transmits the report required under section 4157(b) of Title 42, The Public Health and Welfare, to transmit that report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, items 4 to 6 on page 155 of House Document No. 103-7.

#### AMENDMENTS

2004—Subsec. (d). Pub. L. 108-364 substituted “targeted individuals and entities” for “targeted individuals”.

1998—Subsec. (a)(1). Pub. L. 105-220, §408(a)(2)(A), substituted “chairperson and” for “Chairperson and” in concluding provisions.

Subsec. (b)(2). Pub. L. 105-220, §408(a)(2)(B)(i), substituted “information” for “guidelines”.

Subsec. (b)(3). Pub. L. 105-220, §408(a)(2)(B)(ii), added par. (3) and struck out former par. (3) which read as follows: “establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;”.

Subsec. (b)(11). Pub. L. 105-220, §408(a)(2)(B)(iii)-(v), added par. (11).

Subsec. (d). Pub. L. 105-394, §203(a)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 105-220, §408(a)(2)(C), substituted “procedures under this subsection” for “procedures under this section”.

Subsec. (e). Pub. L. 105-394, §203(a)(1), (3), redesignated subsec. (d) as (e) and substituted “subsection (f)” for “subsection (e)” in second sentence of par. (1). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-394, §203(a)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105-394, §203(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 105-220, §408(a)(2)(D), substituted “Committee on Education and the Workforce” for “Committee on Education and Labor”.

Subsec. (h). Pub. L. 105-394, §203(a)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(2)(A). Pub. L. 105-220, §408(a)(2)(E), substituted “paragraphs (2) and (4)” for “paragraphs (5) and (7)”.

Subsec. (i). Pub. L. 105-394, §203(a)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Pub. L. 105-220, §408(a)(2)(F), substituted “fiscal years 1999 through 2003” for “fiscal years 1993 through 1997”.

Subsec. (j). Pub. L. 105-394, §203(a)(1), redesignated subsec. (i) as (j).

1993—Subsec. (a)(5)(A). Pub. L. 103-73 substituted “level IV of the Executive Schedule under section 5315” for “level 4 of the Senior Executive Service Schedule under section 5382”.

1992—Pub. L. 102-569, §504(a)(2), (3), substituted “the Access Board” and “The Access Board” for “the Board” and “The Board”, respectively, wherever appearing.

Subsec. (a)(1). Pub. L. 102-569, §504(a)(1), substituted “the ‘Access Board’” for “the ‘Board’” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 102-569, §504(b)(1)(A), substituted “Thirteen” for “Twelve” and “at least a majority” for “six”.

Pub. L. 102-569, §102(p)(30), substituted “individuals with disabilities” for “individuals with handicaps”.

Subsec. (a)(1)(B)(xii). Pub. L. 102-569, §504(b)(1)(B), added cl. (xii).

Subsec. (a)(2)(A). Pub. L. 102-569, §504(b)(2), designated existing provisions as cl. (i), substituted “4 years, except as provided in clause (ii)” for “three years” and “at least three” for “four”, and added cl. (ii).

Subsec. (a)(3). Pub. L. 102-569, §504(b)(3), substituted “a Federal” for “such an” after “member becomes”.

Subsec. (a)(5)(A). Pub. L. 102-569, §504(b)(4), substituted “the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382” for “the daily rate prescribed for GS-18 under section 5332”.

Subsec. (b). Pub. L. 102-569, §504(c), amended subsec. (b) generally, substituting present provisions for provisions which outlined eight specific functions of the Access Board.

Subsec. (c). Pub. L. 102-569, §102(p)(30), substituted “individuals with disabilities” for “individuals with handicaps” wherever appearing.

Subsec. (d)(1). Pub. L. 102-569, §504(d)(1), in first sentence, substituted “The Access Board shall conduct” for “In carrying out its functions under this chapter, the Access Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or forprofit organizations, carry out its functions under subsections (b) and (c) of this section, and shall conduct” and “to ensure compliance” for “to insure compliance”.

Subsec. (d)(3). Pub. L. 102-569, §504(d)(2), struck out par. (3) which read as follows: “The Access Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Education, shall develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this subchapter with respect to overcoming architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Access Board for the purpose of carrying out this paragraph.”

The Access Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Access Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Access Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section."

Subsec. (f). Pub. L. 102-569, § 504(e), added par. (1), designated existing provisions as par. (2) and substituted "paragraph" for "subsection", "Chairperson" for "Secretary", and "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382" for "the daily pay rate for a person employed as a GS-18 under section 5332".

Subsec. (g). Pub. L. 102-569, § 504(f), designated existing provisions as par. (1), substituted "paragraphs (8) and (9) of such subsection" for "clauses (5) and (6) of subsection (b) of this section", struck out at end "The Access Board shall prepare two final reports of its activities under subsection (c) of this section. One such report shall be on its activities in the field of transportation barriers facing individuals with disabilities, and the other such report shall be on its activities in the field of the housing needs of individuals with disabilities. The Access Board shall, not later than September 30, 1975, submit each such report, together with its recommendations, to the President and the Congress. The Access Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after September 26, 1973. The Access Board shall prepare and submit two additional reports of its activities under subsection (c) of this section, one report on its activities in the field of transportation barriers facing individuals with disabilities and the other report on its activities in the field of the housing needs of individuals with disabilities. The two additional reports required by the previous sentence shall be submitted not later than February 1, 1988.", and added par. (2).

Pub. L. 102-569, § 102(p)(30), substituted "individuals with disabilities" for "individuals with handicaps" wherever appearing.

Subsec. (h)(1). Pub. L. 102-569, § 504(g)(1)-(3), redesignated par. (2) as (1), struck out at end "The Access Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before including in such report the findings of any study conducted for the Access Board under a grant or contract to provide the Access Board with such cost assessments, the Access Board shall take all necessary steps to validate the accuracy of any such findings.", and struck out former par. (1) which read as follows: "Within one year following November 6, 1978, the Access Board shall submit to the President and the Congress a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide individuals with disabilities with full access to all programs and activities receiving Federal assistance."

Pub. L. 102-569, § 102(p)(30), substituted "individuals with disabilities" for "individuals with handicaps" before "with full access".

Subsec. (h)(2). Pub. L. 102-569, § 504(g)(4), which directed the addition of par. (2) "at the end" of subsec. (h), was executed by adding par. (2) before par. (3) to reflect the probable intent of Congress. Former par. (2) redesignated (1).

Subsec. (i). Pub. L. 102-569, § 504(h), substituted "fiscal years 1993 through 1997." for "fiscal years 1987 through 1992, but in no event shall the amount appropriated for any one fiscal year exceed \$3,000,000."

1991—Subsec. (a)(1)(B)(ix). Pub. L. 102-54 substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (i). Pub. L. 102-52 substituted "1987 through 1992" for "1987, 1988, 1989, 1990, and 1991".

1988—Subsec. (a)(2). Pub. L. 100-630, § 206(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read

as follows: "The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, four for a term of one year, four for a term of two years, and three for a term of three years, (ii) a member whose term has expired may continue to serve until a successor has been appointed, and (iii) a member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed."

Subsec. (a)(3). Pub. L. 100-630, § 206(b)(2), substituted "the member" for "he".

Subsec. (a)(5)(A). Pub. L. 100-630, § 206(b)(3), substituted "travel time" for "traveltime".

Subsec. (b). Pub. L. 100-630, § 206(b)(4)-(7), inserted a comma after "surface transportation" in cl. (2), and substituted "Administrator of General Services" for "Administrator of the General Services Administration" in cl. (4), "results of" for "results to" in cl. (5), and "individuals with physical handicaps" for "physically handicapped persons" in cl. (8).

Subsec. (c)(2)(A). Pub. L. 100-630, § 206(b)(8), inserted a comma after "expanded transportation systems".

Subsec. (d)(2)(B). Pub. L. 100-630, § 206(b)(9), substituted "that relate to" for "which related to".

Subsec. (f). Pub. L. 100-630, § 206(b)(10), substituted "daily pay rate for" for "daily pay rate, for", "section 5332 of title 5" for "section 5332 of title 45", and "travel time" for "traveltime".

Subsec. (g). Pub. L. 100-630, § 206(b)(11), substituted "transportation barriers facing individuals with handicaps" for "transportation barriers to individuals with handicaps" and for "transportation barriers of handicapped individuals" in fourth and seventh sentences, respectively, and "housing needs of individuals with handicaps" for "housing needs of handicapped individuals" in seventh sentence.

1986—Subsec. (a)(1)(A). Pub. L. 99-506, §§ 103(d)(2)(C), 601(a)(2), substituted "Twelve" for "Eleven", "six" for "five", and "individuals with handicaps" for "handicapped individuals".

Subsec. (a)(1)(B). Pub. L. 99-506, § 601(a)(1), substituted provision that Chairperson and vice-chairperson of Board shall be elected by majority vote of members of Board to serve for terms of one year, for provision that President had to appoint first Chairman of such Board who was to serve for term of not more than two years, with subsequent Chairmen to be elected by majority vote of Board for term of one year, and inserted provisions that positions of Chairperson and vice-chairperson each be held alternately in succession by Federal official and by member of general public, and that when either office is held by member of general public, the other will be held by Federal official.

Subsec. (a)(2)(ii), (iii). Pub. L. 99-506, § 601(a)(3), added cls. (ii) and (iii), and struck out former cl. (ii) which read as follows: "any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed".

Subsec. (a)(6). Pub. L. 99-506, § 601(a)(4), added par. (6). Subsecs. (b)(2), (c). Pub. L. 99-506, § 103(d)(2)(C), substituted "individuals with handicaps" for "handicapped individuals" wherever appearing.

Subsec. (d)(2)(A). Pub. L. 99-506, § 1002(e)(2)(B), substituted "any final order" for "any, final order".

Subsec. (d)(3). Pub. L. 99-506, § 1002(e)(2)(C), substituted "Department of Education" for "Department of Health, Education, and Welfare" and "with respect to overcoming" for "with respect overcoming to".

Subsec. (e)(2). Pub. L. 99-506, § 1002(e)(2)(D), substituted "alleged noncompliance and in" for "alleged noncompliance in".

Subsec. (g). Pub. L. 99-506, § 601(b), inserted provisions requiring the Board to submit, not later than Feb. 1, 1988, two additional reports on its activities under subsec. (c), one report to deal with its activities relating to transportation barriers to handicapped individuals, the other to deal with activities relating to the housing needs of handicapped individuals.

Pub. L. 99-506, § 103(d)(2)(C), substituted "individuals with handicaps" for "handicapped individuals" wherever appearing.

Subsec. (h)(1). Pub. L. 99-506, §103(d)(2)(C), substituted reference to individuals with handicaps for reference to handicapped individuals.

Subsec. (i). Pub. L. 99-506, §601(c), which directed the substitution of "of the fiscal years 1987, 1988, 1989, 1990, and 1991," for "fiscal year ending before October 1, 1986," was executed by making the substitution for "fiscal year ending before October 1, 1986," as the probable intent of Congress. See 1984 Amendment note below.

1984—Subsec. (i). Pub. L. 98-221 substituted "October 1, 1986," for "October 1, 1982".

1980—Subsec. (a)(1)(B)(i). Pub. L. 96-374, §1321(a)(1), substituted "Department of Health and Human Services" for "Department of Health, Education, and Welfare".

Subsec. (a)(1)(B)(xi). Pub. L. 96-374, §1321(a)(2), added cl. (xi).

Subsec. (h)(3). Pub. L. 96-374, §1321(b), added par. (3).

1978—Subsec. (a). Pub. L. 95-602, §118(a), substituted provision permitting President to appoint eleven members of Board from general public of whom five are to be handicapped, adding head of the Department of Justice as a Board member, authorizing President to appoint the first chairman, and providing for the term of office, reappointment, and compensation of Board members for provision restricting Board membership to head of Department of Health, Education, and Welfare, Department of Transportation, Department of Housing and Urban Development, Department of Labor, Department of the Interior, Department of Defense, General Services Administration, United States Postal Service, and Veterans' Administration, appointing Secretary of Health, Education, and Welfare as chairman, and authorizing appointment of a Consumer Advisory Panel, a majority of members of which were to be handicapped, to provide guidance, advice, and recommendations to Board.

Subsec. (b)(1). Pub. L. 95-602, §118(b)(1), substituted provision requiring Board to insure compliance with standards of Architectural Barriers Act of 1968, including application to United States Postal Service, and to insure all waivers and modifications of standards are based on findings of fact and are not inconsistent with that Act or this section for provision requiring Board to insure compliance with the standards prescribed by General Services Administration, Department of Defense, and Department of Housing and Urban Development pursuant to Architectural Barriers Act of 1968.

Subsec. (b)(2). Pub. L. 95-602, §118(b)(2), inserted "communication," before "and attitudinal" and "telecommunication devices," before "public buildings".

Subsec. (b)(7), (8). Pub. L. 95-602, §118(b)(3), added pars. (7) and (8).

Subsec. (d). Pub. L. 95-602, §118(c), designated existing provision as par. (1), substituted "public or private nonprofit organizations or contracts with private nonprofit or forprofit organizations" for "or contracts with public or private nonprofit organizations", "Except as provided in paragraph (3) of subsection (e) of this section, provisions" for "The provisions", "building or public conveyance or rolling stock found" for "building found", and "enforced under this section" for "prescribed pursuant to the Acts cited in subsection (b) of this section", inserted provision permitting a complainant or participant in a proceeding under this subsection to obtain review of a final order pursuant to chapter 7 of title 5, and added pars. (2) and (3).

Subsec. (e). Pub. L. 95-602, §118(d), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners" wherever appearing. Such substitution was made in pars. (2) and (3) as the probable intent of Congress in view of the amendment to subsec. (e) by section 2(a)(8) of Pub. L. 95-251 (although prior in time to the amendment by Pub. L. 95-602) requiring such substitution wherever appearing in text.

Subsec. (h). Pub. L. 95-602, §118(e), added subsec. (h). Former subsec. (h), which authorized appropriations for

carrying out duties and functions of the Board of \$1,000,000 for each of fiscal years ending June 30, 1974, and June 30, 1975, \$1,500,000 for fiscal year ending June 30, 1976, and \$1,500,000 for each of fiscal years ending Sept. 30, 1977 and Sept. 30, 1978, was struck out.

Subsec. (i). Pub. L. 95-602, §118(e), added subsec. (i).

1976—Subsec. (h). Pub. L. 94-230, §10, authorized appropriation of \$1,500,000 for fiscal year ending Sept. 30, 1977.

Pub. L. 94-230, §11(b)(13), authorized appropriation of \$1,500,000 for fiscal year ending Sept. 30, 1978.

1974—Subsec. (a). Pub. L. 93-516, §111(n), redesignated cls. (6), (7), and (8), as cls. (7), (8), and (9), added cl. (6), and following designated clauses, inserted provisions that Secretary of Health, Education, and Welfare shall be Chairman of Board, and that Board shall appoint, upon recommendation of Secretary, a Consumer Advisory Panel, a majority of members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to Board in carrying out its functions.

Pub. L. 93-651, §111(n), amended subsec. (a) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (d). Pub. L. 93-516, §111(o), substituted "this chapter, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carrying out its functions under subsections (b) and (c) of this section, and shall conduct" for "this section, the Board shall conduct", and inserted provisions that any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality, and that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts referred to in subsec. (b) of this section.

Pub. L. 93-651, §111(o), amended subsec. (d) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (e). Pub. L. 93-516, §111(p), inserted provisions relating to appointment of an executive director and other professional and clerical personnel.

Pub. L. 93-651, §111(p), amended subsec. (e) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (g). Pub. L. 93-516, §111(q), substituted "not later than September 30, 1975" for "prior to January 1, 1975".

Pub. L. 93-651, §111(q), amended subsec. (g) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (h). Pub. L. 93-516, §110, authorized appropriation of \$1,500,000 for fiscal year ending June 30, 1976.

Pub. L. 93-651, §110, amended subsec. (h) in exactly the same manner as it was amended by Pub. L. 93-516.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96-374, set out as a note under section 1001 of Title 20, Education.

#### EXTENSION OF VOCATIONAL REHABILITATION PROGRAMS THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1978; EFFECTIVE DATE OF 1976 AMENDMENT

For contingency provisions relating to the extensions of program authorizations and to the effective date of such extensions, see section 11(a), (b)(1), and (c) of Pub. L. 94-230, set out as a note under section 720 of this title.

#### TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Ap-

pendix to Title 5, Government Organization and Employees.

### § 793. Employment under Federal contracts

#### (a) Amount of contracts or subcontracts; provision for employment and advancement of qualified individuals with disabilities; regulations

Any contract in excess of \$10,000 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. The provisions of this section shall apply to any subcontract in excess of \$10,000 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.

#### (b) Administrative enforcement; complaints; investigations; departmental action

If any individual with a disability believes any contractor has failed or refused to comply with the provisions of a contract with the United States, relating to employment of individuals with disabilities, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

#### (c) Waiver by President; national interest special circumstances for waiver of particular agreements; waiver by Secretary of Labor of affirmative action requirements

(1) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which the President shall prescribe, when the President determines that special circumstances in the national interest so require and states in writing the reasons for such determination.

(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) of this section with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this chapter.

(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

#### (d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,<sup>1</sup> of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

#### (e) Avoidance of duplicative efforts and inconsistencies

The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.

(Pub. L. 93–112, title V, § 503, Sept. 26, 1973, 87 Stat. 393; Pub. L. 95–602, title I, § 122(d)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), (C), title X, §§ 1001(f)(2), (3), 1002(e)(3), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(c), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(31), title V, § 505, Oct. 29, 1992, 106 Stat. 4360, 4427.)

#### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subssecs. (d) and (e), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, §102(p)(31)(A), 505(a), substituted “\$10,000” for “\$2,500” in two places, struck out “, in employing persons to carry out such contract,” after “contain a provision requiring that”, and substituted “individuals with disabilities” for “individuals with handicaps as defined in section 706(8) of this title”.

Subsec. (b). Pub. L. 102–569, §102(p)(31)(B), substituted “individual with a disability” for “individual with handicaps” and “individuals with disabilities” for “individuals with handicaps”.

Subsec. (c). Pub. L. 102–569, §505(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d), (e). Pub. L. 102–569, §505(c), added subssecs. (d) and (e).

1988—Subsec. (a). Pub. L. 100–630, §206(c)(1), inserted a comma after “to carry out such contract”.

Subsec. (b). Pub. L. 100–630, §206(c)(2), substituted “refused” for “refuses”.

Subsec. (c). Pub. L. 100–630, §206(c)(3), substituted “which the President” for “which The President” and “when the President” for “when The President”.

1986—Subsec. (a). Pub. L. 99–506, §§103(d)(2)(C), 1002(e)(3), substituted “individuals with handicaps” for “handicapped individuals” and “section 706(8) of this title” for “section 706(7) of this title”.

<sup>1</sup> See References in Text note below.

Subsec. (b). Pub. L. 99-506, §§103(d)(2)(B), (C), 1001(f)(2), substituted “individual with handicaps” for “handicapped individual”, “individuals with handicaps” for “handicapped individuals”, and “a contract” for “his contract”.

Subsec. (c). Pub. L. 99-506, §1001(f)(3), substituted “The President” for “he” in two places and substituted “the reasons” for “his reasons”.

1978—Subsec. (a). Pub. L. 95-602 substituted “section 706(7) of this title” for “section 706(6) of this title”.

#### **§ 794. Nondiscrimination under Federal grants and programs**

##### **(a) Promulgation of rules and regulations**

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

##### **(b) “Program or activity” defined**

For the purposes of this section, the term “program or activity” means all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other post-secondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

##### **(c) Significant structural alterations by small providers**

Small providers are not required by subsection (a) of this section to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

##### **(d) Standards used in determining violation of section**

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,<sup>1</sup> of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201-12204 and 12210), as such sections relate to employment.

(Pub. L. 93-112, title V, §504, Sept. 26, 1973, 87 Stat. 394; Pub. L. 95-602, title I, §§119, 122(d)(2), Nov. 6, 1978, 92 Stat. 2982, 2987; Pub. L. 99-506, title I, §103(d)(2)(B), title X, §1002(e)(4), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 100-259, §4, Mar. 22, 1988, 102 Stat. 29; Pub. L. 100-630, title II, §206(d), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102-569, title I, §102(p)(32), title V, §506, Oct. 29, 1992, 106 Stat. 4360, 4428; Pub. L. 103-382, title III, §394(i)(2), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105-220, title IV, §408(a)(3), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 107-110, title X, §1076(u)(2), Jan. 8, 2002, 115 Stat. 2093.)

##### **REFERENCES IN TEXT**

The amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, referred to in subsec. (a), mean the amendments made by Pub. L. 95-602. See 1978 Amendments note below.

The Americans with Disabilities Act of 1990, referred to in subsec. (d), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. Section 510 of the Act was renumbered section 511 by Pub. L. 110-325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

##### **AMENDMENTS**

2002—Subsec. (b)(2)(B). Pub. L. 107-110 substituted “section 7801 of title 20” for “section 8801 of title 20”.

1998—Subsec. (a). Pub. L. 105-220 substituted “section 705(20)” for “section 706(8)”.

1994—Subsec. (b)(2)(B). Pub. L. 103-382 substituted “section 8801 of title 20” for “section 2891(12) of title 20”.

1992—Subsec. (a). Pub. L. 102-569, §102(p)(32), substituted “a disability” for “handicaps” and “disability” for “handicap” in first sentence.

Subsec. (d). Pub. L. 102-569, §506, added subsec. (d).

1988—Subsec. (a). Pub. L. 100-630, §206(d)(1), substituted “her or his handicap” for “his handicap”.

Pub. L. 100-259, §4(1), designated existing provisions as subsec. (a).

<sup>1</sup> See References in Text note below.

Subsec. (b). Pub. L. 100-259, §4(2), added subsec. (b).  
 Subsec. (b)(2)(B). Pub. L. 100-630, §206(d)(2), substituted “section 2891(12) of title 20” for “section 2854(a)(10) of title 20”.

Subsec. (c). Pub. L. 100-259, §4(2), added subsec. (c).  
 1986—Pub. L. 99-506 substituted “individual with handicaps” for “handicapped individual” and “section 706(8) of this title” for “section 706(7) of this title”.

1978—Pub. L. 95-602 substituted “section 706(7) of this title” for “section 706(6) of this title” and inserted provision prohibiting discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service and requiring the heads of these agencies to promulgate regulations prohibiting discrimination.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

#### EXCLUSION FROM COVERAGE

Amendment by Pub. L. 100-259 not to be construed to extend application of this chapter to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100-259, set out as a Construction note under section 1687 of Title 20, Education.

#### ABORTION NEUTRALITY

Amendment by Pub. L. 100-259 not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100-259, set out as a note under section 1688 of Title 20, Education.

#### CONSTRUCTION OF PROHIBITION AGAINST DISCRIMINATION UNDER FEDERAL GRANTS

Rights or protections of this section not affected by any provision of Pub. L. 98-457, see section 127 of Pub. L. 98-457, set out as a note under section 5101 of Title 42, The Public Health and Welfare.

#### COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this section by the Attorney General, see section 1-201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d-1 of Title 42, The Public Health and Welfare.

#### EXECUTIVE ORDER NO. 11914

Ex. Ord. No. 11914, Apr. 28, 1976, 41 F.R. 17871, which related to nondiscrimination in federally assisted programs, was revoked by Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d-1 of Title 42, The Public Health and Welfare.

#### § 794a. Remedies and attorney fees

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e-5(f) through (k)) (and the application of section 706(e)(3) (42 U.S.C. 2000e-5(e)(3)) to claims of discrimination in compensation), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy

under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e-5), applied to claims of discrimination in compensation) shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(Pub. L. 93-112, title V, §505, as added Pub. L. 95-602, title I, §120(a), Nov. 6, 1978, 92 Stat. 2982; amended Pub. L. 111-2, §5(c)(1), Jan. 29, 2009, 123 Stat. 6.)

#### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a)(2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

#### AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-2, §5(c)(1)(A), inserted “(and the application of section 706(e)(3) (42 U.S.C. 2000e-5(e)(3)) to claims of discrimination in compensation)” after “(42 U.S.C. 2000e-5(f) through (k))”.

Subsec. (a)(2). Pub. L. 111-2, §5(c)(1)(B), inserted “(42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e-5), applied to claims of discrimination in compensation)” after “1964”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-2 effective as if enacted May 28, 2007, and applicable to certain claims of discrimination in compensation pending on or after that date, see section 6 of Pub. L. 111-2, set out as a note under section 2000e-5 of Title 42, The Public Health and Welfare.

#### § 794b. Removal of architectural, transportation, or communication barriers; technical and financial assistance; compensation of experts or consultants; authorization of appropriations

(a) The Secretary may provide directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, technical assistance—

(1) to persons operating community rehabilitation programs; and

(2) with the concurrence of the Access Board established by section 792 of this title, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Access Board under paragraph (2) shall re-

flect its consideration of cost studies carried out by States.

(b) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(c) The Secretary, with the concurrence of the Access Board and the President, may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this subsection until a study demonstrating the need for such assistance has been conducted and submitted under section 792(i)(1) of this title.

(d) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 93-112, title V, § 506, as added Pub. L. 95-602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2983; amended Pub. L. 100-630, title II, § 206(e), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102-569, title V, § 507, Oct. 29, 1992, 106 Stat. 4428; Pub. L. 105-220, title IV, § 408(a)(4), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 105-394, title II, § 203(b), Nov. 13, 1998, 112 Stat. 3653.)

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-220, § 408(a)(4)(A), in concluding provisions, inserted last sentence and struck out former last sentence which read as follows: “Any concurrence of the Access Board under this paragraph shall reflect its consideration of the cost studies carried out by States under section 792(c)(1) of this title.”

Subsec. (c). Pub. L. 105-394 substituted “792(i)(1)” for “792(h)(1)”.

Pub. L. 105-220, § 408(a)(4)(B), substituted “provided under this subsection” for “provided under this paragraph”.

1992—Subsec. (a). Pub. L. 102-569, § 507(a), (b), substituted “community rehabilitation programs” for “rehabilitation facilities” in par. (1) and inserted “Access” before “Board” in par. (2) and concluding provisions.

Subsec. (b). Pub. L. 102-569, § 507(c), substituted “the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382” for “the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332”.

Subsec. (c). Pub. L. 102-569, § 507(a), (d), inserted “Access” before “Board” and substituted “792(h)(1)” for “792(h)(2)”.

1988—Subsec. (a). Pub. L. 100-630, § 206(e)(1), (2), redesignated former par. (1) as subsec. (a) and former subpars. (A) and (B) as pars. (1) and (2), respectively.

Subsec. (b). Pub. L. 100-630, § 206(e)(1), (3), redesignated former par. (2) as subsec. (b) and substituted “travel time” for “traveltime”.

Subsec. (c). Pub. L. 100-630, § 206(e)(1), (4), redesignated former par. (3) as subsec. (c) and inserted a comma after “the President”.

Subsec. (d). Pub. L. 100-630, § 206(e)(1), redesignated former par. (4) as subsec. (d).

### § 794c. Interagency Disability Coordinating Council

#### (a) Establishment

There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the “Council”) composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

#### (b) Duties

The Council shall—

(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this subchapter, and the regulations prescribed thereunder;

(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

#### (c) Report

On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this subchapter.

(Pub. L. 93-112, title V, § 507, as added Pub. L. 95-602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2983; amended Pub. L. 96-88, title V, § 508(m)(2), Oct.



17, 1979, 93 Stat. 694; Pub. L. 98-221, title I, §104(b)(4), Feb. 22, 1984, 98 Stat. 18; Pub. L. 99-506, title VI, §602, title X, §1001(f)(4), Oct. 21, 1986, 100 Stat. 1830, 1843; Pub. L. 102-569, title V, §508(a), Oct. 29, 1992, 106 Stat. 4429.)

#### AMENDMENTS

1992—Pub. L. 102-569 amended section generally, changing Council name from Interagency Coordinating Council to Interagency Disability Coordinating Council, including as members Secretary of Housing and Urban Development, Secretary of Transportation, and such other officials as designated by the President, requiring Council to be responsible for developing and implementing policies and practices to eliminate inconsistencies among Federal departments and agencies responsible for enforcement of provisions of this subchapter and to carry out such studies and other activities, with advice from the National Council on Disability, to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities, and directing in annual report inclusion of any comments submitted by National Council on Disability as to effectiveness of activities and recommendations in meeting needs of individuals with disabilities.

1986—Pub. L. 99-506, §602, inserted reference to Assistant Secretary of the Interior for Indian Affairs.

Pub. L. 99-506, §1001(f)(4), which directed the substitution of “Chairperson” for “Chairman” was executed by substituting “Chairperson of the Architectural and Transportation Barriers Compliance Board” for “Chairman of the Architectural and Transportation Barriers Compliance Board” to reflect the probable intent of Congress.

1984—Pub. L. 98-221 substituted “Chairman of the Office of Personnel Management” for “Chairman of the United States Civil Service Commission” and purported to substitute “Secretary of Education, the Secretary of Health and Human Services,” for “Secretary of Health, Education, and Welfare” which amendment could not be executed in view of the previous amendment by Pub. L. 96-88. See 1979 Amendment note below.

1979—Pub. L. 96-88 substituted requirement that the Secretaries of Education and Health and Human Services be members of the Council for requirement that the Secretary of Health, Education, and Welfare be a member.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to requirement that the Council submit an annual report of activities to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 175 of House Document No. 103-7.

### § 794d. Electronic and information technology

#### (a) Requirements for Federal departments and agencies

##### (1) Accessibility

##### (A) Development, procurement, maintenance, or use of electronic and information technology

When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service,

shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

#### (B) Alternative means efforts

When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

### (2) Electronic and information technology standards

#### (A) In general

Not later than 18 months after August 7, 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the “Access Board”), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth—

(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology specified in section 11101(6) of title 40; and

(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

#### (B) Review and amendment

The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

### (3) Incorporation of standards

Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board revises any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

### (4) Acquisition planning

In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

### (5) Exemption for national security systems

This section shall not apply to national security systems, as that term is defined in section 11103(a) of title 40.

### (6) Construction

#### (A) Equipment

In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency—

(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or

(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.

#### (B) Software and peripheral devices

Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

### (b) Technical assistance

The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

### (c) Agency evaluations

Not later than 6 months after August 7, 1998, the head of each Federal department or agency

shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1) of this section, compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

### (d) Reports

#### (1) Interim report

Not later than 18 months after August 7, 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1) of this section.

#### (2) Biennial reports

Not later than 3 years after August 7, 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f) of this section.

### (e) Cooperation

Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) of this section and prepare the reports under subsection (d) of this section.

### (f) Enforcement

#### (1) General

##### (A) Complaints

Effective 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section, any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) of this section in providing electronic and information technology.

##### (B) Application

This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section.

#### (2) Administrative complaints

Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 794 of this title for

resolving allegations of discrimination in a federally conducted program or activity.

### (3) Civil actions

The remedies, procedures, and rights set forth in sections 794a(a)(2) and 794a(b) of this title shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

### (g) Application to other Federal laws

This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 791 through 794a of this title) that provides greater or equal protection for the rights of individuals with disabilities than this section.

(Pub. L. 93-112, title V, § 508, as added Pub. L. 99-506, title VI, § 603(a), Oct. 21, 1986, 100 Stat. 1830; amended Pub. L. 100-630, title II, § 206(f), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102-569, title V, § 509(a), Oct. 29, 1992, 106 Stat. 4430; Pub. L. 105-220, title IV, § 408(b), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 106-246, div. B, title II, § 2405, July 13, 2000, 114 Stat. 555.)

#### CODIFICATION

“Section 11101(6) of title 40” substituted in subsec. (a)(2)(A)(i) for “section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3))” and “section 11103(a) of title 40” substituted in subsec. (a)(5) for “section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

#### AMENDMENTS

2000—Subsec. (f)(1)(A). Pub. L. 106-246, § 2405(1), substituted “Effective 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section,” for “Effective 2 years after August 7, 1998.”

Subsec. (f)(1)(B). Pub. L. 106-246, § 2405(2), substituted “6 months after the date of publication by the Access Board of final standards described in subsection (a)(2) of this section.” for “2 years after August 7, 1998.”

1998—Pub. L. 105-220 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) and (b) relating to electronic and information technology accessibility guidelines.

1992—Pub. L. 102-569 amended section generally, substituting present provisions for provisions relating to electronic equipment accessibility guidelines, in consultation with electronic industry, designed to insure individuals with handicaps use of electronic office equipment with or without special peripherals, requiring the Administrator of General Services to adopt guidelines for electronic equipment accessibility established under this section for Federal procurement of electronic equipment, and defining term “special peripherals”.

1988—Subsec. (a)(1). Pub. L. 100-630, § 206(f)(1), inserted “the Director of” before “the National Institute”, struck out “the” before “General Services”, and substituted “individuals with handicaps” for “handicapped individuals”.

Subsec. (a)(3). Pub. L. 100-630, § 206(f)(2), inserted “by the Director of the National Institute on Disability and Rehabilitation Research and the Administrator of General Services in consultation with the electronics industry and the Interagency Committee for Computer Support of Handicapped Employees” after “revised”.

Subsec. (c). Pub. L. 100-630, § 206(f)(3), substituted “an individual with handicaps” for “a handicapped individual”.

## § 794e. Protection and advocacy of individual rights

### (a) Purpose and construction

#### (1) Purpose

The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 732 of this title; and

(B)(i) are ineligible for protection and advocacy programs under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.] because the individuals do not have a developmental disability, as defined in section 102 of such Act [42 U.S.C. 15002]; and

(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986<sup>1</sup> (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

#### (2) Construction

This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Assistive Technology Act of 1998 [29 U.S.C. 3001 et seq.].

### (b) Appropriations less than \$5,500,000

For any fiscal year in which the amount appropriated to carry out this section is less than \$5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1) of this section.

### (c) Appropriations of \$5,500,000 or more

#### (1) Reservations

##### (A) Technical assistance

For any fiscal year in which the amount appropriated to carry out this section equals or exceeds \$5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

##### (B) Grant for the eligible system serving the American Indian consortium

For any fiscal year in which the amount appropriated to carry out this section equals or exceeds \$10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than \$50,000 for the fiscal year.

#### (2) Allotments

For any such fiscal year, after the reservations required by paragraph (1) have been

<sup>1</sup> See References in Text note below.

made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for individuals referred to in subsection (b) of this section.

### **(3) Systems within States**

#### **(A) Population basis**

Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

#### **(B) Minimums**

Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than \$100,000 or  $\frac{1}{3}$  of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than \$100,000 or  $\frac{1}{3}$  of 1 percent of such remainder shall be increased to the greater of the two amounts.

### **(4) Systems within other jurisdictions**

#### **(A) In general**

For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

#### **(B) Allotment**

The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than \$50,000 for the fiscal year for which the allotment is made.

### **(5) Adjustment for inflation**

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

### **(d) Proportional reduction**

To provide minimum allotments to systems within States (as increased under subsection (c)(5) of this section) under subsection (c)(3)(B) of this section, or to provide minimum allotments to systems within States (as increased under subsection (c)(5) of this section) under subsection (c)(4)(B) of this section, the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3) of this section, with such

adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5) of this section) under subsection (c)(3)(B) of this section, or the minimum allotment for a State (as increased under subsection (c)(5) of this section) under subsection (c)(4)(B) of this section, as appropriate.

### **(e) Reallotment**

Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) of this section will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

### **(f) Application**

In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

(2) have the same general authorities, including access to records and program income, as are set forth in subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.];

(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a)(1) of this section;

(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals' representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assist-

ance program under section 732 of this title, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.], and the Protection and Advocacy for Mentally Ill Individuals Act of 1986<sup>2</sup> (42 U.S.C. 10801 et seq.);

(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

**(g) Carryover and direct payment**

**(1) Direct payment**

Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

**(2) Carryover**

Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

**(h) Limitation on disclosure requirements**

For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

**(i) Administrative cost**

In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) of this section for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

**(j) Delegation**

The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

**(k) Report**

The Commissioner shall annually prepare and submit to the Committee on Education and the

Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

**(l) Authorization of appropriations**

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

**(m) Definitions**

As used in this section:

**(1) Eligible system**

The term “eligible system” means a protection and advocacy system that is established under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.] and that meets the requirements of subsection (f) of this section.

**(2) American Indian consortium**

The term “American Indian consortium” means a consortium established as described in section 142<sup>2</sup> of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).

(Pub. L. 93-112, title V, §509, as added Pub. L. 102-569, title V, §510(a), Oct. 29, 1992, 106 Stat. 4430; amended Pub. L. 103-73, title I, §112(c), Aug. 11, 1993, 107 Stat. 727; Pub. L. 105-12, §9(n), Apr. 30, 1997, 111 Stat. 28; Pub. L. 105-220, title IV, §408(c), Aug. 7, 1998, 112 Stat. 1206; Pub. L. 105-394, title IV, §402(c), Nov. 13, 1998, 112 Stat. 3662; Pub. L. 106-402, title IV, §401(b)(3)(C), (D), Oct. 30, 2000, 114 Stat. 1738.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsecs. (a)(1)(B)(i), (f)(2), (5)(B), and (m)(1), is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to chapter 144 (§15001 et seq.) of Title 42, The Public Health and Welfare. Subtitle C of the Act probably means subtitle C of title I of the Act which is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsecs. (a)(1)(B)(ii) and (f)(5)(B), was Pub. L. 99-319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99-319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106-310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§10801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of Title 42 and Tables.

The Assistive Technology Act of 1998, referred to in subsec. (a)(2), is Pub. L. 105-394, Nov. 13, 1998, 112 Stat. 3627, which is classified principally to chapter 31 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Older Americans Act of 1965, referred to in subsec. (f)(5)(B), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35

<sup>2</sup> See References in Text note below.

(§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042), referred to in subsec. (m)(2), was repealed by Pub. L. 106-402, title IV, § 401(a), Oct. 30, 2000, 114 Stat. 1737.

#### AMENDMENTS

2000—Subsecs. (a)(1)(B)(i), (f)(2). Pub. L. 106-402, § 401(b)(3)(C), substituted “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000” for “part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)”.

Subsec. (f)(5)(B). Pub. L. 106-402, § 401(b)(3)(D), substituted “Developmental Disabilities Assistance and Bill of Rights Act of 2000” for “Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.)”.

Subsec. (m)(1). Pub. L. 106-402, § 401(b)(3)(C), substituted “subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000” for “part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)”.

1998—Pub. L. 105-220 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (n) relating to protection and advocacy of individual rights.

Subsec. (a)(2). Pub. L. 105-394 substituted “the Assistive Technology Act of 1998” for “the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.)”.

1997—Subsec. (f)(8). Pub. L. 105-12 added par. (8).

1993—Subsec. (a)(1). Pub. L. 103-73, § 112(c)(1), added par. (1) and struck out former par. (1) which read as follows: “are ineligible for client assistance programs under section 732 of this title; and”.

Subsec. (b). Pub. L. 103-73, § 112(c)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

“(1) ALLOTMENTS.—For any fiscal year in which the amount appropriated to carry out this section is less than \$5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a) of this section.

“(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.”

Subsec. (c)(4)(A). Pub. L. 103-73, § 112(c)(3)(A)(i), substituted “paragraph (3)(B)” for “this subsection”.

Subsec. (c)(4)(B). Pub. L. 103-73, § 112(c)(3)(A)(ii), substituted “allotted under paragraph (3)(A)” for “allotted”.

Subsec. (c)(5). Pub. L. 103-73, § 112(c)(3)(B), added par. (5) and struck out heading and text of former par. (5). Text read as follows:

“(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount \$100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

“(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount \$50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992,

as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.”

Subsec. (d). Pub. L. 103-73, § 112(c)(4), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) of this section as increased under subsection (c)(5) of this section, or to provide allotments in accordance with subsection (c)(4)(B) of this section as increased in accordance with subsection (c)(5) of this section, shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3) of this section, but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of \$100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5) of this section.”

Subsec. (i). Pub. L. 103-73, § 112(c)(6), which directed the amendment of this section “in subsection (i), to read as follows:”, was executed by adding subsec. (i). Former subsec. (i) redesignated (n).

Subsec. (j). Pub. L. 103-73, § 112(c)(7), added subsec. (j) and struck out heading and text of former subsec. (j). Text read as follows: “An eligible system may not use more than 5 percent of any allotment under subsection (c) of this section for the cost of administration of the system required by this section.”

Subsec. (n). Pub. L. 103-73, § 112(c)(5), redesignated subsec. (i) as (n).

#### CHANGE OF NAME

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, and also applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

### § 794f. Establishment of standards for accessible medical diagnostic equipment

#### (a) Standards

Not later than 24 months after March 23, 2010,<sup>1</sup> the Architectural and Transportation Barriers Compliance Board shall, in consultation with the Commissioner of the Food and Drug Administration, promulgate regulatory standards in accordance with the Administrative Procedure Act (2 U.S.C. 551 et seq.)<sup>1</sup> setting forth the minimum technical criteria for medical diagnostic equipment used in (or in conjunction with) physician's offices, clinics, emergency rooms, hospitals, and other medical settings. The standards shall ensure that such equipment is acces-

<sup>1</sup> See References in Text note below.

sible to, and usable by, individuals with accessibility needs, and shall allow independent entry to, use of, and exit from the equipment by such individuals to the maximum extent possible.

**(b) Medical diagnostic equipment covered**

The standards issued under subsection (a) for medical diagnostic equipment shall apply to equipment that includes examination tables, examination chairs (including chairs used for eye examinations or procedures, and dental examinations or procedures), weight scales, mammography equipment, x-ray machines, and other radiological equipment commonly used for diagnostic purposes by health professionals.

**(c) Review and amendment**

The Architectural and Transportation Barriers Compliance Board, in consultation with the Commissioner of the Food and Drug Administration, shall periodically review and, as appropriate, amend the standards in accordance with the Administrative Procedure Act (2 U.S.C. 551 et seq.).<sup>1</sup>

(Pub. L. 93-112, title V, § 510, as added Pub. L. 111-148, title IV, § 4203, Mar. 23, 2010, 124 Stat. 570.)

REFERENCES IN TEXT

March 23, 2010, referred to in subsec. (a), was in the original “the date of enactment of the Affordable Health Choices Act”, which was translated as meaning the date of enactment of the Patient Protection and Affordable Care Act, Pub. L. 111-148, which enacted this section, to reflect the probable intent of Congress.

The Administrative Procedure Act, referred to in subsecs. (a) and (c), is act June 11, 1946, ch. 324, 60 Stat. 237, which was repealed and reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

SUBCHAPTER VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

CODIFICATION

Title VI of the Rehabilitation Act of 1973, comprising this subchapter, was originally added to Pub. L. 93-112 by Pub. L. 95-602, title II, § 201, Nov. 6, 1978, 92 Stat. 2989, and amended by Pub. L. 98-221, Feb. 22, 1984, 98 Stat. 17; Pub. L. 99-506, Oct. 21, 1986, 100 Stat. 1807; Pub. L. 100-630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 102-52, June 6, 1991, 105 Stat. 260; Pub. L. 102-119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102-569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103-73, Aug. 11, 1993, 107 Stat. 718. Title VI is shown herein, however, as having been added by Pub. L. 105-220, title IV, § 409, Aug. 7, 1998, 112 Stat. 1210, without reference to those intervening amendments because of the extensive revision of title VI by Pub. L. 105-220.

PART A—PROJECTS WITH INDUSTRY

**§ 795. Projects With Industry**

**(a) Purpose; award of grants; eligibility; agreements; evaluation; technical assistance**

(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career

readiness and training programs, and to provide job placements and career advancement.

(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

(A) provide for the establishment of business advisory councils, that shall—

(i) be comprised of—

(I) representatives of private industry, business concerns, and organized labor;

(II) individuals with disabilities and representatives of individuals with disabilities; and

(III) a representative of the appropriate designated State unit;

(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment board for the community under section 2833(b)(1)(B) of this title;

(iii) identify the skills necessary to perform the jobs and careers identified; and

(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

(B) provide job development, job placement, and career advancement services;

(C) to the extent appropriate, provide for—

(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

(ii) to the extent practicable, the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 722(a)(1) of this title, and if the determination is made in a manner consistent with section 722(a) of this title.

(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 722(a) of this title.